USSN 09/538,562
Page 8

REMARKS

This response is intended as a full and complete response to the final Office Action mailed February 10, 2005. In the Action, the Examiner notes that claims 1-26 are pending, of which claims 1-15 stand rejected and claims 16-26 are subject to a restriction requirement. By this response, claim 5 is amended, claims 1-4 and 6-15 continued unamended, and claims 16-26 are withdrawn.

In view of both the amendments presented above and the following discussion, the Applicants submit that none of the claims now pending in the application are anticipated under the provisions of 35 U.S.C. §102. Thus, the Applicants believe that all of the pending claims are now in allowable form.

ELECTION/RESTRICTIONS

In the Action, the Examiner states that the Applicants' claims 16-26 are directed to an invention that is independent or distinct from the invention originally claimed. Further, the Examiner states that (1) the invention of claims 1-15, the originally presented invention, has been constructively elected since an action on the merits has been received, and (2) claims 16-26 are withdrawn from consideration.

The Applicants acknowledge the withdrawal of claims 16-26. However, the Applicants reserve the right to subsequently file divisional applications in order to prosecute the inventions recited in claims 16-26.

REJECTIONS

REJECTION OF CLAIMS UNDER 35 U.S.C. §102

The Examiner has rejected claims 1-15 under 35 U.S.C. 102(b) as being anticipated by Gordon et al. (WO 98/31115, hereinafter "Gordon"). The Applicants respectfully traverse the rejection.

Independent claim 1 recites:

"A system for providing access to an array of guide pages from an interactive program guide within constraints imposed by limited bandwidth available in a distribution network, the system comprising:
a distribution control center coupled to the distribution network;

341112-1

USSN 09/538,562
Page 9

a session manager in the distribution control center for monitoring
and controlling usage of demand-cast stream bandwidth within the
distribution network; and
a transport stream generator for receiving demand-cast stream
usage information from the session manager and using said information to
control which demand-cast streams associated with guide pages of said
array of guide pages are multiplexed into a transport stream for
transmission to a plurality of terminals via the distribution network."
(emphasis added).

"Anticipation requires the presence in a single prior art reference
disclosure of each and every element of the claimed invention, arranged as in the
claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730
F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)(citing Connell v. Sears,
Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis
added). The Gordon reference fails to disclose each and every element of the
claimed invention, as arranged in the claim. That is, the Gordon reference does
not teach or suggest "a transport stream generator for receiving demand-cast
stream usage information from the session manager and using said information
to control which demand-cast streams associated with guide pages of said array
of guide pages are multiplexed into a transport stream for transmission to a
plurality of terminals via the distribution network."

Gordon discloses:

The video session manager 106 contains stream distributor 200, a
digital video modulator (DVM) module 202 (also known as a DVM shelf)
that contains a plurality of DVMs 203, a command and control module
216, and an output module (coax cross connect 214). The video session
manager 106 also includes a spare DVM module 204 that contains a DVM
205 that can be substituted for any one of the DVMs 203 using a 1 for n
sparing scheme. The stream distributor 200 routes the plurality of data
streams from the server to all DVMs 203. ... Each of the DVMs (generally
there are eight DVMs) modulates four data streams. The output module
214, e.g., coax cross connect unit, combines the downstream information
channel with the downstream command information produced by the
controller module 216. ... The control channel modems terminate the
upstream and downstream control signals from/to the set top terminals. A
single command and control modem can be used for each network node
or a plurality of nodes, depending upon the communications traffic. ... The
SCM's responsibilities include set top terminal sign-on and time out,
authentication, configuration, and control protocol termination; alarm
management and frequency assignment; session security; service

341112-1

USSN 09/538,562
Page 10

selection and control; event notification and usage metering; and a subscriber's access to account information. Commands and requests from the set top terminals are processed by the SCM and appropriate requests are made to the file server to perform certain information navigation and movie-on-demand functions. ... The SCM simply keeps track of a number of "pools" of DVMs, the output of the DVMs in each pool being combined and broadcast. As long as the bandwidth is available on the upstream and downstream channels, DVMs may be dynamically moved from one pool to another. ... An SCM communicates with its set top terminals through a plurality of control channel modems (CCM) 218. A neighborhood is generally serviced by one or more CCM; however, broadly speaking a given CCM may service multiple neighborhoods and a plurality of neighborhoods may be serviced by a given CCM. ... Since there is only one CCM that transmits per path in the downstream direction, and the upstream and downstream paths are independent, downstream signal collision cannot occur. Therefore, the CCM may transmit whenever it has data to send. Similarly, every set top terminal simply transmits whenever it has data to send. No carrier sense or collision detection need be performed. (See Gordon, page 12, line 24 to page 16, line 28.)

Nowhere in the Gordon reference is there any teaching, or even suggestion of "a transport stream generator for receiving demand-cast stream usage information from the session manager and using said information to control which demand-cast streams associated with guide pages of said array of guide pages are multiplexed into a transport stream for transmission." That is,

The TSG manages the transport stream for each IPG multiplex it generates. It receives information from the SM on each demand-cast stream indicating whether the stream is currently acquired by any STT or released by all STTs. The TSG is informed by the SM when there is no longer any STT on a demand-cast stream. The TSG is informed by the SM when a STT requests a demand-cast stream. The TSG maintains status for all the demand-cast streams in each multiplex. It adjusts the status for each stream for which it receives a message from the SM. The basic status is 'acquired' for streams in use by one or more STTs or 'released' for streams that are not in use by any STT. The TSG keeps 'acquired' streams in its multiplexes and replaces 'released' streams with new demand-cast streams upon request. It also keeps track of which are the few oldest 'released' stream. The best candidate for replacement is always the oldest 'released' stream. If all the demand-cast streams in a multiplex are 'acquired' then a new stream can not be inserted and the TSG refuses the request. (See Applicants' specification, page 21, lines 4-16.)

341112-1

PAGE 12/14 * RCVD AT 3/21/2005 1:53:04 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/1 * DNIS:8729305 * CSID:+17325309808 * DURATION (mm-ss):04-18

USSN 09/538,562
Page 11

By contrast, the Gordon reference merely discloses that the session control manager communicates with its set top terminals to a plurality of control channel modems, and each of the digital video modulators (DVM) modulates data streams to the set top terminals. Nowhere in the Gordon reference is there any teaching that the transport stream generator receives demand-cast stream usage information from the session manager.

Moreover, nowhere in the Gordon reference is there any teaching that the transport stream generator uses the information received from the session manager to control which demand-cast streams associated with guide pages of the array of guide pages are multiplexed into the transport stream for transmission to the plurality of terminals via the distribution network. Therefore, since the Gordon reference fails to teach, or even suggest, "the transport stream receiving demand-cast stream usage information from the session manager and using the information to control which demand-cast streams associated with guide pages are multiplexed into the transport stream for transmission," the Gordon reference fails to teach each and every element of the claimed invention, as arranged in the claim.

As such, the Applicants submit that independent claim 1 is not anticipated under 35 U.S.C. §102 and is fully patentable thereunder. Furthermore, dependent claims 2-15 depend, either directly or indirectly, from independent claim 1 and recite additional features thereof. As such and at least for the same reasons discussed above, the Applicants submit that these dependent claims are not anticipated under 35 U.S.C. §102 and are fully patentable thereunder. Therefore, the Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §102 rejection.

341112-1

USSN 09/538,562
Page 12

CONCLUSION

Thus, the Applicants submit that none of the claims now pending in the application are anticipated under the provisions of 35 U.S.C. §102 and the pending claims are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

3/18/05

Eamon J. Wall, Attorney
Reg. No. 39,414
(732) 530-9404

Moser, Patterson & Sheridan, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702

341112-1